No. 17-8995

In The Supreme Court of the United States

JASON J. MONT,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

JOINT APPENDIX

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Petition For Certiorari Filed May 15, 2018
Certiorari Granted November 2, 2018

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U.S. District Court
Northern District of Ohio (Youngstown)
CRIMINAL DOCKET FOR CASE
#: 4:05–cr–00229–PAG–2

Case title: United States of America v. Black et al	Date Filed: 05/04/2005 Date Terminated: 12/08/2005

Assigned to: Judge Patricia A. Gaughan

Appeals court case number: 17–3732 6th Circuit

Defendant (2)

Jason J. Mont

21:846 CONSPIRACY TO POSSESS CRACK COCAINE (1)

18:922(g)(1) FELON–IN–POSSESSION OF FIREARMS AND AMMUNITION (8)

Highest Offense Level (Opening)

Felony

Complaints

None

Plaintiff

United States of America

Date Filed	#	Docket Text
05/03/2005	6	Indictment as to William Terry Black (1) count(s) 1, 3–5 & 7, Jason J. Mont (2) count(s) 1, 2, 3, 6 & 8. (C, B) (Entered: 05/04/2005)
09/07/2005		Minutes of proceedings (non–document) before Judge Patricia A. Gaughan.AUSA Linda Barr present. Attorney Damian Billak present for defendant. Change of Plea Hearing as to Jason J. Mont held on 8/30/05. Plea of Guilty entered to Counts 1 & 8 of the Indictment. Referred to Probation for preparation of a Presentence Report. Sentencing set for 12/7/2005 at 11:00 AM before. (Court Reporter Cynthia Lee) (L–C, S) (Entered: 09/07/2005)
12/07/2005	35	Minutes of proceedings before Judge Patricia A. Gaughan. Sentencing held on 12/7/2005 for Jason J. Mont (2), Count 1,

		Committed to the Bureau of Prisons for a period of 120 months, to be followed by 5 years of supervised release; $100.00 special assessment; Counts 2, 3, 6, Dismissed upon the motion of the United States; Count 8, Committed to the Bureau of Prisons for a period of 120 months, to be followed by 3 years of supervised release, both to be served concurrently with the sentence imposed on Count 1; $100.00 special assessment. (Court Reporter Bruce Matthews) (S, DJ) (Entered: 12/14/2005)
12/08/2005	37	Judgment as to Jason J. Mont (2), Count 1, Committed to the Bureau of Prisons for a period of 120 months, to be followed by 5 years of supervised release; $100.00 special assessment; Count 2, 3, 6, Dismissed upon the motion of the United States; Count 8, Committed to the Bureau of Prisons for a period of 120 months, to be followed by 3 years of supervised release, both to be served concurrently with the sentence imposed on Count 1; $100.00 special assessment . Signed by Judge Patricia A. Gaughan on 12/8/05. (S, DJ) (Entered: 12/14/2005)

03/02/2006	49	Transcript of plea Proceedings as to William Terry Black, Jason J. Mont held on 8/30/05 before Judge Gaughan filed manually. To obtain a bound copy of this transcript please contact Court Reporter Cynthia Lee at 216–357–7186. Complete document on file, 22 pages. (C, K A) (H,SP). (Entered: 03/06/2006)
08/24/2009	65	**Order**: Defendant Jason J. Mont's Motion for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense 18 USC 3582 is Granted and defendant's previously imposed sentence of imprisonment of 120 months is reduced to 100 months. Judge Patricia A. Gaughan on 8/20/09. (LC,S) re 63 (Entered: 08/24/2009)
03/05/2012	77	**Order** as to Jason J. Mont: This matter is before the Court upon the Motion of Defendant for a Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2) (Doc. 72). The motion is GRANTED. Accordingly, the Court finds defendant is entitled to a reduction under Section 3582(c)(2). After a two–level reduction for substantial assistance, defendant falls within the guideline range of 84–105 months. The Court again sentences defendant to the low–end

	of that range, i.e., 84 months. Defendant moves for a reduction in his firearm sentence. This Court sentenced defendant to 120–months on count 8, which charged defendant as a felon in possession of a firearm. This 120–month sentence was to run concurrently with defendant's 120–month sentence on the drug charge. The Court previously reduced defendant's sentence to 100–months with respect to the drug charge. Defendant now moves for a corresponding reduction with respect to the gun charge. The government does not respond to this request. For the reasons stated in the defendant's motion, and given the government's lack of objection, the sentence with respect to count 8 is reduced to 84 months. Judge Patricia A. Gaughan on 3/5/12. (LC,S) (Entered: 03/05/2012)
01/06/2016	**Order** [non–document] as to Jason J. Mont: The Court is in receipt of a supervision report of 12/3/15 and 1/4/16. Any further violation will result in a hearing. Judge Patricia A. Gaughan on 1/6/16. (LC,S) (Entered: 01/06/2016)

01/29/2016	89 (Court Only)*	**Order** Regarding Violation Report as to Jason J. Mont. The request is denied. The Court is to be notified of the resolution of the state charges. Judge Patricia A. Gaughan on 1/29/16. (LC,S) (Entered: 01/29/2016)
06/13/2016	90 (Court Only)*	Supervision Report
10/25/2016	92	Notice *of Admission of Violation of Supervised Release* as to Jason J. Mont (2) (Adamson, Paul) (Entered: 10/25/2016)
11/01/2016		**Order** [non–document] as to Jason J. Mont: Supervised Release Violation Hearing is set 11/9/16 at 10:30 a.m. Judge Patricia A. Gaughan on 11/1/16. (LC,S) (Entered: 11/01/2016)
11/02/2016	94	**Motion** to continue Supervised Release Violation Hearing by United States of America as to Jason J. Mont (2). (Barr, Linda) (Entered: 11/02/2016)
11/02/2016	95	**Response** in opposition to **Motion** to continue Supervised Release Violation Hearing 94 as to Jason J. Mont (2) (Attachments: # 1 Exhibit Plea Agreement) (Adamson, Paul) (Entered: 11/02/2016)

11/04/2016		**Order** [non–document] as to Jason J. Mont: Government's Motion to Continue Supervised Release Violation Hearing is GRANTED. The Court incorrectly assumed that sentencing had occurred in the state court. The Supervised Release Violation Hearing is continued to 1/4/17 at 11:30 a.m. Judge Patricia A. Gaughan on 11/4/16. (LC,S) re 94 (Entered: 11/04/2016)
12/21/2016		**Order** [non–document] as to Jason J. Mont: In light of the State sentencing date of 1/18/17, Supervised Release Violation Hearing is continued to 1/26/17 at 12:00 p.m. Judge Patricia A. Gaughan on 12/21/16. (LC,S) (Entered: 12/21/2016)
01/19/2017	96	**Motion** to continue Supervised Release Violation Hearing by United States of America as to Jason J. Mont (2). (Barr, Linda) (Entered: 01/19/2017)
01/20/2017	97	Response to Motion to continue Supervised Release Violation Hearing 96 as to Jason J. Mont (2) (Adamson, Paul) (Entered: 01/20/2017)

01/20/2017		Order [non–document] as to Jason J. Mont: Government's Motion to Continue Supervised Release Violation Hearing is Granted. A new date will not be given until after the conclusion of the State sentencing for the conviction that is the basis of the Supervised Release Violation. Judge Patricia A. Gaughan on 1/20/17. (LC,S) re 96 (Entered: 01/20/2017)
03/30/2017	100 (Court Only)*	**Order** Regarding Violation Report as to Jason J. Mont. The Court Orders the Issuance of a Warrant. Judge Patricia A. Gaughan on 3/30/17. (LC,S) (Entered: 03/30/2017)
05/05/2017	102	Notice *of Availability of Defendant Mont for Supervised Release Violation Hearing* as to Jason J. Mont (2) (Adamson, Paul) (Entered: 05/05/2017)
05/09/2017		**Order** [non–document] as to Jason J. Mont: Supervised Release Violation Hearing is set 6/28/17 at 11:00 a.m. Judge Patricia A. Gaughan on 5/9/17. (LC,S) (Entered: 05/11/2017)
05/18/2017	105	**Journal** Entry Order Granting Government's Petition for Writ

		of Habeas Corpus ad prosequendum as to Jason J. Mont. Judge Patricia A. Gaughan on 5/18/17. (LC,S) re 103 (Entered: 05/18/2017)
06/26/2017	107	Memorandum *in Aid of Proceedings on Supervised Release Violation Hearing scheduled for June 28, 2017* by Jason J. Mont (2) (Adamson, Paul) Modified text on 6/27/2017 (B,R). (Entered: 06/26/2017)
06/28/2017	109	**Order** Regarding Supervised Release Revocation Hearing: A Supervised Release Revocation Hearing was held on June 28, 2017. Assistant U. S. Attorney Brad Beeson was present on behalf of the Government. Defendant Jason Mont was present and represented by his counsel Paul Adamson. Probation Officer Kevin Clements was present on behalf of the Probation Department. The defendant waived his right to an evidentiary hearing and admitted to violating the conditions of his supervised release, to wit: new law violations. The Court finds these violations to be a Grade A. This Court hereby sentences the defendant, Jason Mont, to the custody of

		the Bureau of Prisons for a period of 42 months to run consecutive with his state sentence. The Court does not order further supervision. Judge Patricia A. Gaughan. (Court Reporter: Sarah Nageotte) Time: 30 mins. (LC,S) (Entered: 06/29/2017)
07/11/2017	113	**NOTICE OF APPEAL** to the Sixth Circuit Court of Appeals from the 109 Order of 6/28/17, filed by Jason J. Mont (2). Counsel is court appointed (Malone, Vanessa). Modified text on 7/12/2017 (H,SP). (Entered: 07/11/2017)
07/24/2017	116	Transcript of Supervised Release Violation Proceedings held 6/28/2017 before Chief Judge Patricia A. Gaughan filed as to Jason J. Mont (2), re 115 Transcript Request – Appeal Court Reporter Sarah Nageotte, Telephone number (216) 357–7186 or email Sarah_Nageotte@ohnd.uscourts.gov. [18 pages] Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Parties requesting that privacy information be redacted

must file a notice of intent to redact with the court by 7/31/2017. Redaction Request due 8/14/2017. Redacted Transcript Deadline set for 8/24/2017. Release of Transcript Restriction set for 10/23/2017. (N,SE) (Entered: 07/24/2017)

*These documents have not been made available on the public docket of the Northern District of Ohio in Case #4:05-cr-00229, but are docketed and available on the District Court's docket, to which access is limited to court personnel.

General Docket

United States Court of Appeals
for the Sixth Circuit

Court of Appeals **Docketed:** 07/12/2017
Docket #: 17-3732 **Termed:** 02/15/2018
USA v. Jason Mont
Appeal From: Northern District of Ohio
at Youngstown
Fee Status: In Forma Pauperis

UNITED STATES OF AMERICA
Plaintiff - Appellee

v.

JASON J. MONT
Defendant - Appellant

07/12/2017	1	Criminal Case Docketed. Notice filed by Appellant Jason J. Mont. Transcript needed: y. (RMJ) [Entered: 07/12/2017 02:01 PM]
10/10/2017	15	APPELLANT BRIEF filed by Ms. Vanessa Faye Malone for Jason J. Mont. Certificate of Service: 10/04/2017. Argument Request: not requested. [17-3732] (VFM) [Entered: 10/10/2017 10:21 AM]
11/06/2017	16	APPELLEE BRIEF filed by Ms. Laura McMullen Ford for USA. Certificate of Service: 11/06/2017. Argument Request: not requested. [17-3732] (LMF) [Entered: 11/06/2017 10:20 AM]

11/20/2017 18 REPLY BRIEF filed by Attorney Ms. Vanessa Faye Malone for Appellant Jason J. Mont. Certificate of Service: 11/20/2017. [17-3732] (VFM) [Entered: 11/20/2017 12:48 PM]

01/02/2018 19 SUBMISSION ON BRIEFS date set for Thursday, March 8, 2018. (MCP) [Entered: 01/02/2018 02:42 PM]

02/15/2018 20 OPINION filed : AFFIRMED. Decision not for publication. Karen Nelson Moore (AUTHORING), Deborah L. Cook, and David W. McKeague, Circuit Judges. (CL) [Entered: 02/15/2018 11:08 AM]

03/09/2018 22 MANDATE ISSUED with no costs taxed. (BSM) [Entered: 03/09/2018 03:05 PM]

05/22/2018 23 U.S. Supreme Court notice filed regarding a petition for a writ of certiorari filed by Appellant Jason J. Mont. Supreme Court Case No:17-8995, 05/15/2018. (CL) [Entered: 05/22/2018 03:28 PM]

11/08/2018 24 U.S. Supreme Court letter filed: The motion of petitioner for leave to proceed in forma pauperis and the petition for a writ of certiorari are GRANTED. [23] Supreme Court Case No: 17-8995, 11/02/2018.. (CL) [Entered: 11/08/2018 02:24 PM]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	JUDGE PATRICIA A. GAUGHAN
Plaintiff,	)	CASE NO.: 4:05CR229
-vs-	)	ORDER REGARDING SUPERVISED RELEASE REVOCATION HEARING
JASON MONT,	)	
Defendant,	)	

A Supervised Release Revocation Hearing was held on June 28, 2017. Assistant U. S. Attorney Brad Beeson was present on behalf of the Government. Defendant Jason Mont was present and represented by his counsel Paul Adamson. Probation Officer Kevin Clements was present on behalf of the Probation Department. The defendant waived his right to an evidentiary hearing and admitted to violating the conditions of his supervised release, to wit: new law violations. The Court finds these violations to be a Grade A.

This Court hereby sentences the defendant, Jason Mont, to the custody of the Bureau of Prisons for a period of 42 months to run consecutive with his state sentence. The Court does not order further supervision.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
Patricia A. Gaughan
United States District Court
Chief Judge

Date 6/28/17

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	Case No. 4:05-cr-229 – 2 Cleveland, Ohio
Plaintiff,	WEDNESDAY, JUNE 28, 2017
vs.	
JASON J. MONT,	
Defendant.	

TRANSCRIPT OF SUPERVISED RELEASE
VIOLATION PROCEEDINGS BEFORE
THE HONORABLE PATRICIA A. GAUGHAN
UNITED STATES CHIEF JUDGE

APPEARANCES:

For the Government:	Brad Beeson, *Assistant United States Attorney*
For the Defendant:	Paul F. Adamson, *Esquire*
For Probation:	Kevin Clements
Chief Court Reporter:	Sarah E. Nageotte, RDR, CRR, CRC United States District Court 801 West Superior Avenue Court Reporters 7-189 Cleveland, Ohio 44113 (216) 357-7186

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

[2] (Proceedings commenced at 11:04 a.m.)

– – –

THE COURT: Mr. Mont, you may approach the podium with counsel.

We're here in the matter of United States of America versus Jason Mont, Case Number 05-cr-229.

Present in Court is Mr. Mont. Is that correct, sir?

THE DEFENDANT: Yes.

THE COURT: Represented by his attorney, Mr. Paul Adamson.

On behalf of the Government, I have Linda Barr down here, but it's Brad Beeson.

And on behalf of Probation, Mr. Kevin Clements.

PROBATION OFFICER: Good morning, Your Honor.

THE COURT: We're here today for purposes of a supervised violation – supervised release violation hearing.

I do, in fact, have a violation report dated March 30th of this year. According to this report, there are two alleged violations.

The first is a new law violation, Case Number 2016 CR 555, defendant was convicted of five counts of trafficking in cocaine, felonies of the fifth degree; one count of trafficking in cocaine, a felony of the fourth

degree; one [3] count of trafficking in cocaine, a felony of the third degree; one count of trafficking in marijuana, a felony of the second degree; one count of engaging in a pattern of corrupt activity, a felony of the first degree.

The second alleged violation is a new law violation, 2015 CR 291, defendant was convicted of two counts of trafficking in marijuana, both felonies of the second degree.

On behalf of your client, Mr. Adamson, do you wish for this Court to hear testimony regarding these alleged violations or do you waive the taking of testimony and admit?

MR. ADAMSON: Your Honor, we would waive the taking of testimony and admit that these offenses would constitute violations of his supervised release.

THE COURT: Do you have –

MR. ADAMSON: We have a jurisdictional issue to address with the Court, but that's separate and apart from this.

THE COURT: Do you understand, sir, what your attorney just said to me?

THE DEFENDANT: Yes, ma'am.

THE COURT: And are you – are you, in fact, admitting that you were convicted in these two cases?

THE DEFENDANT: Yes, ma'am.

[4] THE COURT: Sir, based upon your admission, I do, in fact, find you to be in violation of supervised release, and I will put an order on that you are waiving the taking of testimony regarding the allegations.

This Court does, in fact, find them to be a Grade A, both of them to be Grade A violations, and with a criminal history category of IV, you are looking at an advisory sentencing guideline range of 37 to 46 months.

The Court is in receipt of the defendant's memorandum. Specifically, it's entitled Defendant Mont's memorandum in aid of proceedings on supervised release violation hearing.

You, Mr. Adamson, have specifically questioned whether the jurisdiction – whether this Court has jurisdiction to proceed with the hearing.

Do you wish to be further heard than what is contained in your memo?

MR. ADAMSON: Just to this extent, Judge. I wasn't certain when I put – when I filed the memorandum as to whether or when a – a warrant or summons had been issued to Mr. Mont.

Mr. Mont now tells me that he was served with a warrant on either March 22nd or March 23rd of 2017, and he advises me that that's – that was the first and only warrant or summons that he was served with relative to this supervised release violation.

[5] His – we believe that his supervised release expired on March 6th of 2017, and it's, then, our belief, assuming those facts are correct, that the Court would be without jurisdiction pursuant to 18 U.S.C. 3583(i), which, of course, extends the Court's power beyond the period of expiration but only if a warrant or summons is issued prior to revocation.

THE COURT: Mr. Beeson.

MR. BEESON: Your Honor, I've had an opportunity to review this issue, and the Government believes that *Madden*, which is 5 F.3d 601, at page 608, applies, and this is almost exactly –

THE COURT: You mean 515?

MR. BEESON: Excuse me, Your Honor.

THE COURT: 515 F.3d 601?

MR. BEESON: Yes.

And, then, at page 608 is where the Court makes its holding.

But the fact pattern is similar to this case, Your Honor, in which the defendant in that case had numerous interactions with the Court and Probation concerning pending criminal charges in the state system, and those essentially tolled or allowed the Court to have jurisdiction outside of the normal period of supervised release, which is exactly what's going on here, Your Honor.

[6] And for those reasons, the Government believes that the Court still has jurisdiction in this matter.

THE COURT: Mr. Clements.

PROBATION OFFICER: Yes, Your Honor.

My understanding in this case was Mr. Mont went into custody back on May 26th of 2016. His supervision was tolled by our office on June 1st of 2016, in that Mr. Mont made himself unavailable for supervision.

Those cases that we were looking at through Criminal Procedures, it appears that if individuals are available for supervision, a warrant or a summons has to be issued.

It's our policy, according to 18 U.S.C. 3564(b) and 3624(e), that terms of supervised release are tolled, do not run while the offender is in prison for 30 or more consecutive days in connection with a new charge or conviction.

In this case, Mr. Mont was in prison for nine months prior to his supervision ending, and when I review the record, a lot of these delays were caused by him having new attorneys, firing the attorney, having a new attorney, firing an attorney, having a new attorney, so it was just going on and on and on for a very lengthy period of time.

But in our case, like I said, his supervision was tolled way back on June 1st. He wasn't available for supervision. He wasn't on the street. We were not –

[7] THE COURT: I'm sorry. He wasn't on –

PROBATION OFFICER: He was on – he was in jail, so he wasn't available for us to supervise on the street.

THE COURT: So I am correct that he was in custody from June until today?

PROBATION OFFICER: Yeah. He went into custody on May 26th, 2016, and he remained in custody to this date.

THE COURT: For the record, Mr. Clements, I – my information is the same as what you have just stated. And let me go further.

When I received notification of these alleged violations, I did, in fact, give notice by way of a summons on November 1st of 2016 setting this for a supervised release violation hearing for November 9th of 2016.

On November 4th of 2016, I granted a continuance and informed all parties involved that I was waiting until the state proceedings were concluded because the very conduct that formed the violations in my case were, in fact, the state law violations that I was waiting to be concluded. There were no other alleged violations. So I continued it to January 4th of 2017.

I received notification that the sentencing date was going to be on January 18th, so on December 21st of 2016, I [8] continued my hearing until January 26th, and I specifically indicated, and the docket reflects, that I was doing so in light of the sentencing date of January 18th.

I then learned that the sentencing was not going to go forward on January 26th as a result of the defendant's own motion asking that the sentencing be continued, so I continued my hearing, and I did that, the entry is January 20th, 2017, and I specifically indicated that it would be continued until the sentencing was concluded.

I then learned that the sentencing went forward. I received a notice from the defendant – from defense counsel on May 5th, and it was a document entitled notice of availability of defendant for supervised release violation hearing.

When I received that notice, I, on May 9th, set the supervised release violation hearing for today, June 28th, and I gave that amount of time because it was necessary for the United States Marshal to actually get him in our custody. And I have been informed over many years of being on the bench that the Marshal needs that kind of time in order to bring someone from state custody into our custody.

So I then look at the plain language of 3583(i), and that section states that a Court retains the power to impose a sanction for a supervised release violation beyond the expiration of the term of supervised release for any period [9] reasonably necessary for the adjudication of matters arising from its expiration.

So the question then becomes is the time from – from the time of the plea on October 7th of 2016 until today, June 28th, 2017, was that period of time reasonably necessary?

And this Court – because this Court does, in fact, acknowledge that if all things went as they should have gone, supervision would have expired on March 7th, 2017.

This Court finds all of that time was, in fact, reasonably necessary because it was the actions of the defendant that caused the various extensions of time of having the supervised release violation hearing.

Further, this Court finds that that period of time certainly did not prejudice the defendant.

So, therefore, this Court concludes that I do, in fact, have jurisdiction over this matter.

So we are now going to proceed to sentencing.

And, again, Mr. Adamson, I have reviewed your memorandum, and I want you to be assured I have thoroughly read it and – and considered what you have in your memorandum.

However, you certainly are free to speak.

MR. ADAMSON: Thank you, Judge.

First, I want to say, and I know you know this, that [10] Jason meant no disrespect to this Court by raising the jurisdictional issue.

THE COURT: Oh.

MR. ADAMSON: I felt I had a duty to do that, just for record purposes.

THE COURT: Oh, absolutely not.

MR. ADAMSON: Thank you, Judge.

THE COURT: No. No. No. You do have a duty to raise any issues, and I certainly would never hold that against any defendant.

And, Mr. Mont, I want you to be assured, by your attorney raising the jurisdiction issue, it doesn't negatively affect you whatsoever. That was his duty.

MR. ADAMSON: All right.

Judge, secondly, anything I say, Judge, is not intended to minimize – I mean, he went back to what he was doing when he got sentenced by you, and he did it twice, and there's nothing I can say that would be intended to minimize that.

He sold – he had a marijuana charge in 2014, and then he sold cocaine in 2016, and did all this under your supervision, and we have no excuse for that.

Just by way of explanation, I guess, a couple things quickly, if I can.

You know, one is that Jason himself, and I think he [11] indicated that, and he's told me from the start, he relapsed into drug use. Actually, his drug of choice was that syrupy stuff that they drink to get high and he – and he started using drugs again.

And when he started using drugs again, he got back into the drug culture and he became involved in drug dealing again.

As it happens, the quantities involved here, at least, you know, fortunately or unfortunately for him, were really minimal, arguably minimal. The total amount of marijuana was 12 pounds. The total amount of cocaine was 12 grams.

There were just multiple small quantity buys as it related to the cocaine, and that's what he was doing, he was using and he was selling and he was selling really small quantities. No excuse for that.

But – but some – we hope that maybe you find that that sets him apart a little bit from somebody who's dealing in mass quantities of drugs, and especially some of the horrible drugs, the more horrible drugs, let's put it that way, the heroin and fentanyl and those things.

So for these quantities – and it was a rather odd prosecution. Well, there was an odd aftermath to the prosecution. I think the prosecutor who prosecuted that case is no longer with the county, and the – and the detective that was involved with it is no longer with the [12] task force, and – but that – you know, that's his fault. Jason takes his responsibility.

The penalty part of it, the six years, they charged it as a – as a – basically, a state RICO charge. They added that additional charge and that's what made it the first degree felony, and, because of this, he ended up with the sentence he got.

Now, I want you to know also, Judge, that – you know, that we really weren't – it wasn't gamesmanship

so much in terms of bouncing around the hearing dates. We really weren't trying to leapfrog you. We brought the case to your attention back in November. We're the ones who first brought it to your attention in November of '16 to come here.

And I'm not trying to revisit that jurisdiction issue.

THE COURT: But, Mr. Adamson, with all due respect, even if your intent was to leapfrog, again, you can try it.

MR. ADAMSON: Right. Fair enough.

THE COURT: You can try it.

MR. ADAMSON: But what happened was we had a couple odd –

THE COURT: If that was your intent, it didn't work.

MR. ADAMSON: No? Okay.

[13] THE COURT: But you can try it.

MR. ADAMSON: I appreciate that.

But I just want you to know, if you look at the pleadings, what happened, he pled, and then there was an issue, the *Gonzales* case came out at the state court and there was an issue about the testing and whether or not there were any degrees of felonies for cocaine because of some glitch in the language, and so, I had to bring that to the Court's attention.

And then, before I – before we ever got to the motion to withdraw his plea, the Ohio Supreme Court reversed itself, you might remember, they made a decision. Anyway, I don't – but that's what was going on there.

Well, in any event, because of the nature of the charges, because of his history, because of his exposure on the RICO part of the charge, there was a negotiated plea and it was for six years, I think the Court is aware.

I've got the journal entries. I don't know if the Government would stipulate that he received a six-year sentence.

THE COURT: Yeah. No. It's – it's in the report.

MR. ADAMSON: Good.

Okay. That being the case, and I'll wrap up, Judge, that's a lot of time. It's marijuana and cocaine. No [14] excuse. I'm just asking you to find that that's enough time.

I – I believe this Court has jurisdiction – it has discretion under 18 U.S.C. 3584 to, whatever sanction you impose, to either order it consecutive or concurrent, and I believe that's the law. I'm going to ask you, whatever sanction you impose, to consider imposing that concurrent to the six-year sentence.

If he had gotten some lesser sentence – and I know that was one of the concerns that the Government had when they responded to my first motion to have the

supervised release hearing back in November of '16, that they mentioned that there's a variety of reasons and sometimes it's to get the state sentence to run concurrent, pushing the cost and burden of housing an inmate off to the federal courts.

Well, that's not going to happen here. He's in state custody. If – if you're kind enough to order a concurrent sentence, he'll stay in state custody. He'll be subject to a – a five-year term of supervised release. I may have misspoke. It's mandatory time. I can't remember if it's three or five, but he's going to be on supervised release when he's done with his sentence, so he's going to be supervised when released. Of course, this Court can extend supervised release again here.

And I just ask the Court to – to consider that six [15] years would satisfy the principles and purposes of sentencing, and – and as imposed in the state court, and I'd ask you that whatever sanction you impose to permit that to be served concurrent to that state sentence.

And Jason would like to briefly address you as well.

THE COURT: Certainly. Do you have anything to say?

THE DEFENDANT: Yes.

Your Honor, being on both sides of the fence, as a drug dealer and a drug addict, I – you know, I know a little bit about both of them.

So when I got sentenced and I was in Lorain waiting to go to prison, I had an awakening. And when you're a drug user or a drug addict, you – have you ever heard you have to be ready or something drastic has to happen, you have to hit rock bottom to have an awakening?

Well, my awakening was I was listening to the radio, it was the news, and an 11-year old girl overdosed on heroin, and they walked into her bedroom and she had three bags of heroin, one was open and two was closed. They called the paramedics and they had to use Narcan on her. And she was in critical condition, last I heard.

And that was my awakening because I said that was just a baby. And how could they, you know, the people – how – how did she get it? You know, who would sell her that [16] heroin? And it just made me mad because she's just a baby and it's – who would hurt her like that?

And, then, I said was I – then I thought, was I hurting people? And I probably was. I was hurting their families, them.

And I want to – I want to help this epidemic now. I want to use the time I have, and I want to help. You know, I've been thinking of ways to help people. And Kevin, he goes – he takes prisoners – you take prisoners back to prison to talk to them?

PROBATION OFFICER: Yes.

THE DEFENDANT: And that's a good program, but I think we need to take them into the schools, too, to stop the epidemic. Not colleges, not high schools, grade schools, fourth through eighth grade, and show them videos of people overdosing and show them videos of people using Narcan and stop it before it starts and scare them so they won't start the epidemic, because when you're an adult, you have to be ready to stop.

But a kid has a choice, and, like, an 11-year old kid, I just don't understand how that got into her hands or how – who told her to use that, and it just made me mad, Your Honor.

So with that said, I apologize that I'm here, and I just want to use this time that I got to better myself.

[17] THE COURT: Mr. Beeson.

MR. BEESON: Based on the offense, which it's been discussed, and his criminal history, the defendant's criminal history, the recommended sentence is between 37 to 46 months.

And my understanding, also, is that it's recommended that the sentence be consecutive with his state sentence, Your Honor.

So the Government, given the severity of the offenses and his criminal history, the Government recommends that he be sentenced at the high end of the guidelines, 46 months, and that sentence be consecutive with his current state sentence, Your Honor.

THE COURT: Anything further, Mr. Clements?

PROBATION OFFICER: Your Honor, I would just recommend a guideline sentence. The statute suggests, upon a finding of a Grade A or B violation, the sentence, that it be run consecutively.

THE COURT: It is the judgment of this Court, sir, that you be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 42 months. And it will be consecutive.

The Court notes this is your eighth – you now have 18 convictions, and the overwhelming majority are for drugs and guns. This Court cannot justify a sentence any lower than [18] that.

There will be no further supervision. Good luck to you, sir.

MR. ADAMSON: Thank you.

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(Proceedings concluded at 11:26 a.m.)

CERTIFICATE

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter prepared from my stenotype notes.

/s/ Sarah E. Nageotte *7/24/2017*
SARAH E. NAGEOTTE, RDR, CRR, CRC DATE

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION
Filed Name: 18a0078n.06

No. 17-3732

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA, **Plaintiff-Appellee,** v. JASON J. MONT, **Defendant-Appellant.**	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO **OPINION** (Filed Feb. 15, 2018)

Before: MOORE, COOK, and McKEAGUE, Circuit Judges.

KAREN NELSON MOORE, Circuit Judge. Defendant-Appellant Jason Mont appeals the district court's revocation of his term of supervised release, arguing that the district court lacked jurisdiction to impose the revocation because his term of supervised release had already expired. Because binding precedent instead makes clear that Mont's term of supervised release was paused by his imprisonment in connection with a new state conviction, we conclude that the district court did indeed have jurisdiction and thus **AFFIRM**.

I. BACKGROUND

Because Mont's challenge hinges on a few key dates, two sections of statutory text, and one case, we review the facts here only briefly. In December 2005, Mont was convicted of violating 21 U.S.C. §§ 841(a)(1), (b)(1)(A), 846, and 18 U.S.C. § 922(g)(1), and sentenced to 120 months of imprisonment to be followed by five years of supervised release. R. 37 (2005 Crim. J. at 1–3) (Page ID #109–11). He appears to have been released from prison on March 6, 2012. *See* R. 90 (Supervision Report at 1) (Page ID #415); *see also* Inmate Locator, FEDERAL BUREAU OF PRISONS, https://www.bop.gov/inmateloc/(listing a release date of "03/06/2012" after a search for "Jason J. Mont"); Appellant's Br. at 4; Appellee's Br. at 4. His release from prison started the clock ticking on his five years of supervised release, *see* 18 U.S.C. § 3624(e)—a countdown slated to end on March 6, 2017.[1]

Unfortunately, that five-year period was not a smooth one for Mont. In January 2016, his probation officer submitted to the district court a violation report alleging that Mont had failed to comply with the terms of his supervised release in two ways: (1) by testing positive during two drug tests for controlled

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[1] Or possibly March 7, 2017. *Compare* R. 90 (Supervision Report at 1) (Page ID #415) (March 6), *with* R. 89 (First Violation Report at 1) (Page ID #411) (March 7), *and* R. 100 (Second Violation Report at 1) (Page ID #454) (same). But as the Government concedes, "[t]he one-day difference does not affect the outcome here." Appellee's Br. at 4 n.1. Both to give Mont the benefit of the ambiguity and because March 6 appears more accurate, we use that date here.

substances (Oxycodone and Oxymorphone) for which he lacked a prescription, and (2) by using some "unknown" liquid to try to pass two subsequent drug tests. R. 89 (First Violation Report at 1) (Page ID #411). Moreover, Mont's probation officer noted, Mont had been "secretly indicted by the Mahoning County Grand Jury on two counts of Trafficking in Marijuana" back in March 2015. *Id.* At the time of the probation officer's report, those state charges were still pending, and a jury trial was scheduled for March 14, 2016. *Id.* at 1–2 (Page ID #411–12). In light of the pending state-court case, the district judge declined to issue a warrant, and instead asked that the court "be notified of the resolution of the state charges." *Id.* at 4 (Page ID #414).

Mont's state jury trial ended up being postponed. R. 90 (Supervision Report at 1) (Page ID #415). Nevertheless, as his probation officer reported, Mont was arrested on June 1, 2016, as a result of a new secret indictment from Mahoning County, this one for "five counts of Trafficking in Cocaine." *Id.* He was "incarcerated in the Mahoning County Jail," *id.* at 2 (Page ID #416), and, as he concedes, remained in state custody going forward, *see* R. 100 (Second Violation Report at 2) (Page ID #455); *see also* Appellant's Br. at 6.[2]

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[2] Again, there is some minor confusion regarding the particular date. At Mont's revocation hearing in federal court, his probation officer testified that Mont "went into custody on May 26th, 2016, and he remained in custody to this date." R. 116 (Violation Hr'g Tr. at 7) (Page ID #490). But the May 26 date does not appear to be otherwise reflected in the district-court record, and Mont instead cites the June 1 date, *see* Appellant's Br. at 6. (For its part, the Government repeatedly gives the operative date as "March

In October 2016, Mont entered into a plea agreement with the Mahoning County prosecutors, pleaded guilty to some of his state court charges in exchange for a predetermined six-year sentence, R. 95-1 (Def.'s Mot. for Continuance, Ex. A) (Page ID #430–38), and filed a written admission in federal court acknowledging that he had violated the terms of his supervised release and requesting a hearing on the matter, R. 92 (Def.'s Admission) (Page ID #419). But Mont had not yet been officially sentenced for the new, state-court convictions. Though the district court initially set a November 2016 date for Mont's supervised-release-violation hearing, a flurry of continuances followed in both state and federal court. *See, e.g.*, R. 94 (Gov't's Mot. for Continuance at 1) (Page ID #424). Ultimately, on March 21, 2017, Mont was sentenced in state court to a total of six years' imprisonment, encompassing multiple concurrent terms stemming from the various state charges on which he had been indicted and arrested. *See* R. 100 (Second Violation Report at 1) (Page ID #454). Importantly, Mont's state-court sentencing judge credited the roughly ten months that Mont had already been incarcerated pending a disposition as time served. *See State v. Mont*, Judgment, No. 16-CR-555, at 2 (Mahoning Cty. Ct. Com. Pl. Mar. 23, 2017);

26, 2016." Appellee's Br. at 5–6, 10, 14–15. That date, also not reflected in the record, is presumably an accidental misrendering of "May" from the probation officer's testimony.) Giving Mont the benefit of the doubt, we treat June 1, 2016, as the beginning of Mont's state imprisonment, noting that Mont's challenge does not hinge on this temporal difference either.

State v. Mont, Judgment, No. 15-CR-291, at 2 (Mahoning Cty. Ct. Com. Pl. Mar. 23, 2017).[3]

On March 30, 2017—now more than three weeks after Mont's term of supervised release had initially been set to expire—Mont's probation officer updated the district court regarding Mont's state-court convictions and sentences. R. 100 (Second Violation Report at 1) (Page ID #454) (same). The district court ordered the issuance of a warrant that same day, *id.* at 4 (Page ID #457); R. 101 (Arrest Warrant at 1) (Page ID #458), and set a supervised-release-violation hearing for June 28, 2017, R. 103 (Pet. for Writ of Habeas Corpus ad Prosequendum at 1) (Page ID #462).

Two days before that hearing, Mont's counsel filed a memorandum contending that "Mont's period of supervised release expired on March 6, 2017," and thus disputing the district court's jurisdiction to adjudicate his otherwise-admitted violation. R. 107 (Def.'s Violation Hr'g Mem. at 2) (Page ID #473). At the hearing, the district court addressed Mont's challenge and "conclude[d] that [it did], in fact, have jurisdiction over this matter." *See* R. 116 (Violation Hr'g Tr. at 9) (Page ID #492). In explaining its conclusion, the district court first stated that it had "give[n] notice by way of a

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[3] As the Government notes, Appellee's Br. at 15 n.2, "it is well-settled that federal courts may take judicial notice of proceedings in other courts of record." *Lyons v. Stovall*, 188 F.3d 327, 333 (6th Cir. 1999) (punctuation and citation removed). We do so here, where the relevant records were publicly available from the Mahoning County Courts, *see* CourtVIEW, MAHONING COUNTY COURTS, https://courts.mahoningcountyoh.gov/eservices/home.page.2.

summons on November 1st of 2016 setting this for a supervised release violation hearing for November 9th of 2016." *Id.* at 7 (Page ID #490). The district court then made reference to 18 U.S.C. § 3583(i), stating that under that provision "a Court retains the power to impose a sanction for a supervised release violation beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising from its expiration."[4] *Id.* at 8–9 (Page ID #491–92). Though the district court acknowledged that, "if all things went as they should have gone, supervision would have expired on March 7th, 2017," the district court reasoned that the extra "time was, in fact, reasonably necessary because it was the actions of the defendant that caused the various extensions of time of having the supervised release violation hearing." *Id.* at 9 (Page ID #492).

The district court proceeded to sentence Mont to 42 months of imprisonment, to be served consecutively to Mont's imprisonment for his state-court convictions. *Id.* at 17 (Page ID #500). Mont timely appealed on the jurisdictional question.

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[4] For maximal clarity, we note here that this expression of the statutory rule left off a key conditional phrase. In fact, a court's "power . . . to revoke a term of supervised release . . . extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before [that term's] expiration *if*, before [that term's] expiration, a warrant or summons has been issued on the basis of an allegation of such a violation." 18 U.S.C. § 3583(i) (emphasis added). As will be apparent, however, this accidental omission does not affect the outcome of this case.

II. DISCUSSION

A. Standard of Review

"We review de novo [a] district court's . . . determination that it had jurisdiction to revoke [a defendant's] supervised release." *United States v. Cross*, 846 F.3d 188, 190 (6th Cir. 2017).

B. The District Court's Jurisdiction

The math in this case is simple: Mont's supervised-release clock was initially set at five years. If it ticked its way down inexorably, then time would have expired on March 6, 2017, and the district court would have lacked jurisdiction to impose a violation at any later date.

But the clock's countdown was not inexorable. Two statutory provisions explain (1) how time could have been extended and (2) how the clock could have been paused. First, "[t]he power of the court to revoke a term of supervised release . . . *extends beyond the expiration of* the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration *if, before its expiration*, a warrant or summons has been issued on the basis of an allegation of such a violation." 18 U.S.C. § 3583(i) (emphases added). That is how time could have been extended. *See United States v. Ossa-Gallegos*, 491 F.3d 537, 543 n.5 (6th Cir. 2007) (en banc). Second, while a "term of supervised release commences on the day the person is released from imprisonment," that term "*does not run* during any period in which the person is imprisoned *in*

connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than 30 consecutive days." 18 U.S.C. § 3624(e) (emphases added). That is how the clock could have been paused.

This second, clock-pausing provision presents an interpretive riddle that we took on in *United States v. Goins*, 516 F.3d 416 (6th Cir. 2008): does thirty days or more of pretrial detention for a charge that results in (and is credited to) a conviction count as "imprisonment in connection with" that conviction? If so, we would understand a defendant's supervised-release clock as having been stopped during any days that defendant spent incarcerated after an indictment, at least so long as (1) that indictment resulted in a conviction and (2) that incarceration was credited as time served for the conviction. And that, in *Goins*, is what we held: "that [1] when a defendant is held for thirty days or longer in pretrial detention, and [2] he is later convicted for the offense for which he was held, and [3] his pretrial detention is credited as time served toward his sentence, then the pretrial detention is 'in connection with' a conviction and tolls the period of supervised release under § 3624." *Id.* at 417. And we explicitly rejected any "temporal limitations" for this rule, finding none in the statute's text and thus acknowledging that our rule might "require a 'backward-looking analysis'" at times. *Id.* at 422 (quoting *United States v. Morales-Alejo*, 193 F.3d 1102, 1104 (9th Cir. 1999)).

As may be clear by now, *Goins* resolves this case.[5] Mont was held for roughly ten months in pretrial detention. *See* R. 90 (Supervision Report at 1–2) (Page ID #415–16); R. 100 (Second Violation Report at 1–2) (Page ID #454–55). He was later convicted of the offenses for which he was held. *See* R. 100 (Second Violation Report at 1–2) (Page ID #454–55). That pretrial detention was credited as time served toward his sentence. *State v. Mont*, Judgment, No. 16-CR-555, at 2 (Mahoning Cty. Ct. Com. Pl. Mar. 23, 2017); *State v. Mont*, Judgment, No. 15-CR-291, at 2 (Mahoning Cty. Ct. Com. Pl. Mar. 23, 2017). Accordingly, Mont's term of supervised release did "not run during" those ten months (nor, for that matter, during the post-conviction incarceration that followed). *See* 18 U.S.C. § 3624(e); *Goins*, 516 F.3d at 417. This means that there was still quite a bit of time left on the clock when the district court issued its warrant on March 30, 2017, R. 101 (Arrest Warrant at 1) (Page ID #458), triggering the

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[5] Because it does, we need not consider the Government's alternate argument for affirmance: that the district "court's issuance of a summons before [Mont's] supervision expired" triggered an extension under § 3583(i). Appellee's Br. at 13. While it is true that the district court said during Mont's hearing that it had issued such a summons in November 2016, R. 116 (Violation Hr'g Tr. at 7) (Page ID #490), Mont contends "that there is no evidence on the record which indicates that the district court actually filed" such a summons, Reply Br. at 3. We too have failed to detect any such evidence in the record, and the Government has not pointed us to any, citing only the district court's own statement. *See, e.g.*, Appellee's Br. at 13. Nevertheless, we leave this question aside, as *Goins* requires that we affirm regardless.

"extension" that 18 U.S.C. § 3583(i) in turn provides.[6] The district court, in other words, had jurisdiction.

Mont seeks to avoid this result in a few ways, mostly by arguing two variants of the idea that "the district court . . . failed to take the steps that were necessary to preserve its jurisdictional authority," Appellant's Br. at 21. First, he argues that the district court neglected to mention *Goins* or "make any finding regarding tolling, and instead relied upon Section 3583(i)." *Id.* at 22. This is essentially a forfeiture argument: that because the district court did not invoke *Goins* or § 3624(e)'s clock-pausing powers, those powers were never activated in the first place and cannot be activated now.

This argument fails for several reasons. First of all, as the Government notes, "Mont presents no authority establishing that the court was required to take affirmative steps to 'preserve' authority during a tolling period." Appellee's Br. at 16. Indeed, nothing in

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[6] Of course, that extension was not itself necessary in this case, because, given the length of Mont's incarceration, there would have been time left on the clock in any event when Mont's supervised-release-violation hearing finally occurred on June 28, 2017. But that may not always be the case, as indeed it was not in *Goins* itself. *See Goins*, 516 F.3d at 418–19. In other words, the interaction between the two statutory provisions can be crucial: in some cases § 3624(e)'s having briefly paused a defendant's supervised-release clock will make the difference as to whether there was still time remaining when a court's issuance of a warrant or summons in turn triggered § 3583(i)'s extension, even though the resulting hearing itself would have otherwise impermissibly fallen "beyond the expiration of the term of supervised release," *see* 18 U.S.C. § 3583(i).

Goins suggests that a district court must invoke § 3624(e) specifically for its statutory commands to be in effect. Second, as the Government also notes, Appellee's Br. at 19, "[a] decision below must be affirmed if correct for any reason, including a reason not considered by the lower court." *United States v. Henderson*, 626 F.3d 326, 334 (6th Cir. 2010) (quoting *Russ' Kwik Car Wash, Inc. v. Marathon Petroleum Co.*, 772 F.2d 214, 216 (6th Cir. 1985)). We cannot, in other words, rule that the district court lacked jurisdiction simply because we would have explained why the district court had jurisdiction differently. Nor, third, would that kind of approach to federal-court jurisdiction fit with longstanding federal-court doctrine, which does not treat our jurisdiction as the kind of thing that can be squandered by design *or* inattention. *Cf. Mitchell v. Maurer*, 293 U.S. 237, 244 (1934) ("Unlike an objection to venue, lack of federal jurisdiction cannot be waived or be overcome by an agreement of the parties. An appellate federal court must satisfy itself not only of its own jurisdiction, but also of that of the lower courts in a cause under review.").

Mont also offers a second spin on this necessary-steps argument: that § 3624(e) pauses the clock only when a court has first undertaken the procedures—issuing a summons or warrant—outlined in § 3583(i). He points out, for example, that "this Court has specifically rejected [§ 3583(i)] as a tolling mechanism," Appellant's Br. at 22, and argues that § 3583(i) instead "permits a delayed revocation hearing only when the district court has preserved its power, or jurisdiction,

to act beyond the termination of a sentence by means of issuing a summons or warrant," Reply Br. at 6.

This argument also fails. Again, there is the problem that Mont offers no authority or explanation for why a warrant or summons under § 3583(i) would serve as a necessary precondition for § 3624(e). But more importantly, nothing in the text of the statutes suggests as much, and *Goins* itself contradicts Mont's theory. *See Goins*, 516 F.3d at 418–19 (noting that the problem presented by the case was that § 3583(i) was *not satisfied* but that § 3624(e) could nevertheless render the relevant "warrant timely," *id.* at 419). And while Mont is correct that § 3583(i) is not what we have called "a tolling provision," *see Ossa-Gallegos*, 491 F.3d at 543 n.5, that fact is irrelevant. Mont's appeal fails, rather, because § 3624(e) *is* what we have called a tolling provision.[7]

What remains of Mont's argument amounts essentially to an attack on *Goins* itself and an endorsement of the D.C. Circuit's recent decision to the contrary, *see United States v. Marsh*, 829 F.3d 705 (D.C. Cir. 2016). That is fair enough: there is indeed a circuit split on this question. *Compare United States v. Ide*, 624 F.3d

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[7] That said, what the word "tolled" means turns out to be a thorny question, susceptible to two different interpretations. *See generally Artis v. District of Columbia*, ___ S. Ct. ___, 2018 WL 491524 (2018) (addressing whether 28 U.S.C. § 1367(d) serves to pause state statute-of-limitations periods or to provide a grace period after those periods expire). Thankfully, that ambiguity is not at issue here, as the plain text of § 3624(e) makes clear that it is, more precisely, a clock-pausing provision.

666, 667 (4th Cir. 2010) (holding that pretrial detention can qualify as imprisonment under § 3624(e)), *United States v. Johnson*, 581 F.3d 1310, 1312–13 (11th Cir. 2009) (same), *United States v. Molina-Gazca*, 571 F.3d 470, 471 (5th Cir. 2009) (same), *and Goins*, 516 F.3d at 417 (6th Cir.) (same), *with Marsh*, 829 F.3d at 705 (D.C. Cir.) (holding that pretrial detention does not qualify), *and Morales-Alejo*, 193 F.3d at 1106 (9th Cir.) (same). But *Goins* is a published decision, and "a published prior panel decision 'remains controlling authority unless an inconsistent decision of the United States Supreme Court requires modification of the decision or this Court sitting en banc overrules the prior decision.'" *Sykes v. Anderson*, 625 F.3d 294, 319 (6th Cir. 2010) (quoting *Salmi v. Sec'y of Health & Human Servs.*, 774 F.2d 685, 689 (6th Cir. 1985)). *Goins* therefore forecloses Mont's challenge to the district court's jurisdiction.

III. CONCLUSION

Under our binding precedent interpreting federal law, the clock on Mont's supervised-release term stopped ticking the day that Mont was incarcerated in Mahoning County in connection with his eventual convictions, given that his incarceration was greater than or equal to thirty days and credited as time served for those convictions. Consequently, there was still time remaining on Mont's supervised-release clock—and therefore jurisdiction—when the district court issued its warrant (and, for that matter, when it ultimately

adjudicated Mont's supervised-release violation). We accordingly **AFFIRM** the district court's judgment.